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SEP - 2 2006

In re Application of:	:	
Hideaki Takahashi	:	DECISION ON PETITION
Serial No.: 10/707,589	:	TO ACCEPT PAPERS
Filed: December 23, 2003	:	AS BEING TIMELY FILED
Attorney Docket No.: SIMTEK6715	:	

This is a decision on the petition filed on August 6, 2006, requesting that the amendment filed together with the petition be accepted as being timely filed.

The petition is DENIED.

Petitioner requests that amendment be accepted as timely filed because of a delay by the Office in responding to an earlier filed petition.

A review of the file record indicates that a Final Office action was mailed on January 25, 2006. On January 26, 2006, petitioner filed a petition requesting that the finality of the Office action be withdrawn. On April 23, 2005, petitioner filed a letter requesting the status of the application. On August 1, 2006, a decision granting the petition to withdraw the finality of the Office action was mailed.

Under the provisions of 35 U.S.C. 133, upon failure of an applicant to prosecute an application within six months after any action therein, the application shall be regarded as abandoned. In other words, after an applicant fails to respond to an Office action within the six month statutory period, the application becomes abandoned by operation of law.

Pursuant to 37 C.F.R. § 1.181(f): "The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable."

Under the provisions of 37 C.F.R. § 1.181(f), the filing of the petition on January 26, 2006 did not toll the time for filing a response to the Office action of January 25, 2006. As such, it was incumbent upon applicant to take steps to ensure against the abandoning of the application.

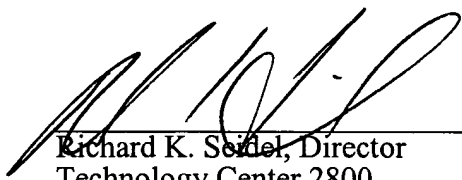
While it is regrettable that a decision on the petition was not promptly rendered, the lack of a decision on the petition did not suspend the responsibility of the applicant to ensure against the abandoning of the application. In the instant case, applicant did not file a proper response to the Office action mailed on January 25, 2006 during the six month statutory period for response. Since there was no proper response to the Office action by July 25, 2006, this application became abandoned by operation of law after July 25, 2006.

For the above stated reasons, the petition is denied.

Petitioner may wish to consider filing a petition under 37 C.F.R. § 1.137 (a) or (b) to revive the application.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely.

Any inquiries regarding this decision should be directed to Special Program Examiner Edward Westin at (571) 272-1638.

  
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